

of these estimates and the assumptions on which these estimates have been based.

(2) Discuss all risks related to construction of the project and regulation and governmental action as they affect the technical feasibility of the project.

Section E. Financial Feasibility. Discuss the reliability of the financial projections and assumptions on which the financial statements are based including all sources of project capital both private and public, such as Federal funds. Provide 3 years (minimum) projected Balance Sheets and Income Statements and cash flow projections for the life of the project. Discuss the ability of the business to achieve the projected income and cash flow. Provide an assessment of the cost accounting system. Discuss the availability of short-term credit or other means to meet reasonable business costs and the adequacy of raw materials and supplies. Provide a sensitivity analysis, including feedstock and energy costs. Discuss all risks related to the project, financing plan, the operational units, and tax issues.

Section F. Management Feasibility. Discuss the continuity and adequacy of management. Identify applicant and/or management's previous experience concerning the receipt of federal financial assistance, including amount of funding, date received, purpose, and outcome. Discuss all risks related to the applicant as a company (e.g., applicant is at the Development-Stage) and conflicts of interest, including appearances of conflicts of interest.

Section G. Qualifications. Provide a resume or statement of qualifications of the author of the feasibility study, including prior experience.

Subpart C [Reserved]

Subpart D—Rural Microentrepreneur Assistance Program

AUTHORITY: 7 U.S.C. 1989(a), 7 U.S.C. 2009s.

SOURCE: 75 FR 30145, May 28, 2010, unless otherwise noted.

§ 4280.301 Purpose and scope.

(a) This subpart contains the provisions and procedures by which the Agency will administer the Rural Microenterprise Assistance Program (RMAP). The purpose of the program is to support the development and ongoing success of rural microentrepreneurs and microenterprises. To accomplish this purpose, the program will make direct loans, and provide grants to selected Microenterprise Development

Organizations (MDOs). Selected MDOs will use the funds to:

(1) Provide microloans to rural microentrepreneurs and microenterprises;

(2) Provide business based training and technical assistance to rural microborrowers and potential microborrowers; and

(3) Perform other such activities as deemed appropriate by the Secretary to ensure the development and ongoing success of rural microenterprises.

(b) The Agency will make direct loans to microlenders, as defined in § 4280.302, for the purpose of providing fixed interest rate microloans to rural microentrepreneurs for startup and growing microenterprises. Eligible microlenders will also be automatically eligible to receive microlender technical assistance grants to provide technical assistance and training to microentrepreneurs that have received or are seeking a microloan under this program.

(c) To allow for extended opportunities for technical assistance and training, the Agency will make technical assistance-only grants to MDOs that have sources of funding other than program funds for making or facilitating microloans.

§ 4280.302 Definitions and abbreviations.

(a) *General definitions.* The following definitions apply to the terms used in this subpart.

Administrative expenses. Those expenses incurred by an MDO for the operation of services under this program. Not more than 10 percent of TA grant funding may be used for such expenses.

Agency. USDA Rural Development, Rural Business-Cooperative Service or its successor organization.

Agency personnel. Individuals employed by the Agency.

Applicant. The legal entity, also referred to as a microenterprise development organization or MDO, submitting an application to participate in the program.

Application. The forms and documentation submitted by an MDO for acceptance into the program.

Award. The written documentation, executed by the Agency after the application is approved, containing the terms and conditions for provision of financial assistance to the applicant. Financial assistance may constitute a loan or a grant or both.

Business incubator. An organization that provides temporary premises at below market rates, technical assistance, advice, use of equipment, and may provide access to capital, or other facilities or services to rural micro-entrepreneurs and microenterprises starting or growing a business.

Close relative. Individuals who are closely related by blood, marriage, or adoption, or live within the same household: a spouse, domestic partner, parent, child, brother, sister, aunt, uncle, grandparent, grandchild, niece, or nephew.

Default. The condition that exists when a borrower is not in compliance with the promissory note, the loan and/or grant agreement, or other related documents evidencing the loan.

Delinquency. Failure by an MDO to make a scheduled loan payment by the due date or within any grace period as stipulated in the promissory note and loan agreement.

Eligible project cost. The total cost of a microborrower's project for which a microloan is being sought from a microlender less any costs identified as ineligible in § 4280.323.

Facilitation of access to capital. For purposes of this program, facilitation of access to capital means assisting a technical assistance client of the TA-only grantee in obtaining a microloan whether or not the microloan is wholly or partially capitalized by funds provided under this program.

Federal Fiscal year (FY). The 12-month period beginning October 1 of any given year and ending on September 30 of the following year.

Full-time equivalent employee (FTE). The Agency uses the Bureau of Labor Statistics definition of full-time jobs as its standard definition. For purposes of this program, a full-time job is a job that has at least 35 hours in a work week. As such, one full-time job with at least 35 hours in a work week equals one FTE; two part-time jobs with combined hours of at least 35 hours in a

work week equals one FTE, and three seasonal jobs equals one FTE. If an FTE calculation results in a fraction, it should be rounded up to the next whole number.

Indian tribe. As defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 *et seq.*], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians."

Loan loss reserve fund (LLRF). An interest-bearing deposit account that each microlender must establish and maintain in an amount equal to not less than 5 percent of the total amount owed by the microlender under this program to the Agency to pay any shortage in the RMRF caused by delinquencies or losses on microloans.

Microborrower. A microentrepreneur or microenterprise that has received financial assistance from a microlender under this program in an amount of \$50,000 or less.

Microenterprise. Microenterprise means:

(i) A sole proprietorship located in a rural area; or

(ii) A business entity, located in a rural area, with not more than 10 full-time-equivalent employees. Rural microenterprises are businesses employing 10 people or fewer that are in need of \$50,000 or less in business capital and/or in need of business based technical assistance and training. Such businesses may include any type of legal business that meets local standards of decency. Business types may also include agricultural producers provided they meet the stipulations in this definition.

(iii) All microenterprises assisted under this regulation must be located in rural areas.

Microenterprise development organization (MDO). An organization that is a non-profit entity; an Indian tribe (the government of which tribe certifies that no MDO serves the tribe and no

RMAP exists under the jurisdiction of the Indian tribe); or a public institution of higher education; and that, for the benefit of rural microentrepreneurs and microenterprises:

(i) Provides training and technical assistance and/or;

(ii) Makes microloans or facilitates access to capital or another related service; and/or

(iii) Has a demonstrated record of delivering, or an effective plan to develop a program to deliver, such services.

Microentrepreneur. An owner and operator, or prospective owner and operator, of a microenterprise who is unable to obtain sufficient training, technical assistance, or credit other than under this section, as determined by the Secretary. All microentrepreneurs assisted under this regulation must be located in rural areas.

Microlender. An MDO that has been approved by the Agency for participation under this subpart to make microloans and provide an integrated program of training and technical assistance to its microborrowers and prospective microborrowers.

Microloan. A business loan of not more than \$50,000 with a fixed interest rate and a term not to exceed 10 years.

Military personnel. Individuals, regardless of rank or grade, currently in active United States military service with less than 6 months remaining in their active duty service requirement.

Nonprofit entity. An entity chartered as a nonprofit entity under State Law.

Program. The Rural Microentrepreneur Assistance Program (RMAP).

Rural microloan revolving fund (RMRF). An exclusive interest-bearing account on which the Agency will hold a first lien and from which microloans will be made; into which payments from microborrowers and reimbursements from the LLRF will be deposited; and from which payments will be made by the microlender to the Agency.

Rural or rural area. Any area of a State not in a city or town that has a population of more than 50,000 inhabitants, according to the latest decennial census of the United States, and the contiguous and adjacent urbanized area, and any area that has been determined to be "rural in character" by

the Under Secretary for Rural Development, or as otherwise identified in this definition. In determining which census blocks in an urbanized area are not in a rural area, the Agency will exclude any cluster of census blocks that would otherwise be considered not in a Rural Area only because the cluster is adjacent to not more than two census blocks that are otherwise considered not in a rural area under this definition.

(i) For the purposes of this definition, cities and towns are incorporated population centers with definite boundaries, local self government, and legal powers set forth in a charter granted by the State.

(ii) For the Commonwealth of Puerto Rico, the island is considered rural and eligible for Business Programs assistance, except for the San Juan Census Designated Place (CDP) and any other CDP with greater than 50,000 inhabitants. CDPs with greater than 50,000 inhabitants, other than the San Juan CDP, may be determined to be eligible if they are "not urban in character." Any such requests must be forwarded to the National Office, Business and Industry Division, with supporting documentation as to why the area is "not urban in character" for review, analysis, and decision by the Rural Development Under Secretary.

(iii) For the State of Hawaii, all areas within the State are considered rural and eligible for Business Programs assistance, except for the Honolulu CDP within the County of Honolulu.

(iv) For the purpose of defining a rural area in the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands, the Agency shall determine what constitutes rural and rural area based on available population data.

(v) On the petition of a unit of local government in an area described in paragraph (v)(A) or (B) of this definition, or on the initiative of the Under Secretary for Rural Development, the Under Secretary may determine that part of an area described in paragraph (v)(A) or (B) of this definition, is a rural area for the purposes of this paragraph, if the Under Secretary finds

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that the part is “rural in character”, as determined by the Under Secretary.

(A) An urbanized area that has two points on its boundary that are at least 40 miles apart, which is not contiguous or adjacent to a city or town that has a population of greater than 150,000 inhabitants or the urbanized area of such a city or town; or

(B) An urbanized area contiguous and adjacent to a city or town of greater than 50,000 population that is within one-quarter mile of a rural area.

State. Any of the 50 States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

Technical assistance and training. The provision of education, guidance, or instruction to one or more rural micro-entrepreneurs to prepare them for self-employment; to improve the state of their existing rural microenterprises; to increase their capacity in a specific technical aspect of the subject business; and, to assist the rural micro-entrepreneurs in achieving a degree of business preparedness and/or functioning that will allow them to obtain, or have the ability to obtain, one or more business loans of \$50,000 or less, whether or not from program funds.

Technical assistance grant. A grant, the funds of which are used to provide technical assistance and training, as defined in this section.

(b) *Abbreviations.* The following abbreviations apply to the terms used in this subpart:

FTE—Full-time employee

LLRF—Loan loss reserve fund.

MDO—Microenterprise development organization.

RMAP—Rural microentrepreneur assistance program.

RMRF—Rural microloan revolving fund.

TA—Technical assistance.

[75 FR 30145, May 28, 2010, as amended at 75 FR 41696, July 19, 2010]

§ 4280.303 Exception authority.

The Administrator may make limited exceptions to the requirements or provisions of this subpart. Such excep-

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tions must be in the best financial interest of the Federal government and may not conflict with applicable law. No exceptions may be made regarding applicant eligibility, project eligibility, or the rural area definition. In addition, exceptions may not be made:

(a) To accept an applicant into the program that would not normally be accepted under the eligibility or scoring criteria; or

(b) To fund an interested party that has not successfully competed for funding in accordance with the regulations.

§ 4280.304 Review or appeal rights and administrative concerns.

(a) *Review or appeal rights.* An applicant MDO, a microlender, or grantee MDO may seek a review of an adverse Agency decision under this subpart from the appropriate Agency official that oversees the program in question, and/or appeal the Agency decision to the National Appeals Division in accordance with 7 CFR part 11.

(b) *Administrative concerns.* Any questions or concerns regarding the administration of the program, including any action of the microlender, may be addressed to: USDA Rural Development, Rural Business-Cooperative Service, Specialty Programs Division or its successor agency, or the local USDA Rural Development office.

§ 4280.305 Nondiscrimination and compliance with other Federal laws.

(a) Any entity receiving funds under this subpart must comply with other applicable Federal laws, including the Equal Employment Opportunities Act of 1972, the Americans with Disabilities Act, the Equal Credit Opportunity Act, the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and 7 CFR part 1901, subpart E.

(b) The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or